

FILED
SUPREME COURT
STATE OF WASHINGTON
8/21/2023 1:49 PM
BY ERIN L. LENNON
CLERK

SUPREME COURT OF THE STATE OF WASHINGTON

Supreme Court Case No. 102265-4

Court of Appeals Division II, Case no. 56796-2-II

JOSEPH M. BIELAS,
Appellant,

v.

STATE OF WASHINGTON,
Respondent,

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR CLARK COUNTY
CAUSE NO. 21-1-00495-06

**MOTION TO ENLARGE TIME TO FILE MOTION FOR
DISCRETIONARY REVIEW**

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Of Attorneys for Appellant

1. Identity of Moving Party

Appellant is Joseph M. Bielas, who is asking for the relief designated in Part 2. Appellant is represented by John C. Terry, WSBA # 41337.

2. Relief Sought

Appellant requests that this Court enlarge the time for filing a motion for discretionary review to the Supreme Court from the Court of Appeals – Division 2, within 30 days after a decision terminating review is filed. Appellant’s motion for discretionary review was due July 27, 2023, but was not filed until August 15, 2023¹.

3. Facts Relevant to Motion

Appellant is requesting that the Court retroactively grant additional time within which to file his motion for discretionary review. *See* Exhibit 1 – Affidavit of Counsel. The Court of Appeals opinion decision was filed and served on June 27, 2023. *Id.* Bielas was notified June 28, 2023, and indicated that he wanted to try for discretionary review to the Supreme Court. *Id.* Bielas’ counsel was

¹ An Amended Motion for Discretionary Review is being filed herewith. The Amended Motion is being renamed “Motion for Discretionary Review” from “Petition for Discretionary Review” and the decision of the Court of Appeals is also being attached to said Amended Motion.

out of the office from July 1, 2023, to July 15, 2023, and returned to a backlog. *Id.* Additionally, his counsel then started a one-week class A trial July 24, 2023, which concluded July 28, 2023. *Id.* On August 7, 2023, his counsel started a two-week long homicide trial. *Id.* With the two weeks he was out, the resulting backlog, and the two trials and trial preparation, unfortunately, the motion for review was inadvertently forgotten until it was after the deadline. *Id.*

Bielas was not at fault for the delay. *Id.*

The motion for discretionary review is a single issue nine-page motion. *Id.* It does not appear that the consideration of that motion would prejudice either party. *Id.*

4. Ground for Relief and Argument

Under RAP 18.8, the Court may upon good cause shown, enlarge the time for filing the petition for review. RAP 18.8. Given all of the above, Appellant requests that this Court enlarge the time and accept the filing of the Motion for Discretionary Review.

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Respectfully submitted this date: 08-21-2023

ANDREWS TERRY JEFFERS LLP



JOHN C. TERRY, WSBA # 41337
Attorney for Appellant

I hereby certify that this document contains 407 words,
excluding the parts of the document exempted from the word count by
RAP 18.17.

Signed at Vancouver, WA, on 08-21-2023



JOHN C. TERRY, WSBA # 41337
Attorney for Appellant

AFFIDAVIT OF COUNSEL – JOHN C. TERRY

My name is John C. Terry. I am the Appellant's lawyer.

Appellant is requesting that the Court retroactively grant additional time within which to file his motion for discretionary review. The Court of Appeals opinion decision was filed and served on June 27, 2023. *See* Exhibit 2 – Letter Initiating Case. Thus, the Motion for Discretionary Review was due July 27th, 2023. *Id.*

According to my notes, I notified Bielas of the opinion on June 28, 2023, and at said time, Bielas indicated that he wanted to try for discretionary review to the Supreme Court.

The timing of the receipt of this opinion was difficult for me. I was set to go on a vacation with my family from July 1, 2023, to July 15, 2023. Due to the length of that vacation, I had a very large “to-do” list and that entire week (week of June 26, 2023) prior to leaving was extremely hectic. When I returned, I returned to a backlog of case work, including two upcoming trials, one a one-week class A sex offense starting July 24, 2023, and the other trial, a two-week murder trial, starting August 7, 2023.

With the two weeks I was out, the resulting backlog, and the two trials and trial preparation, unfortunately, the motion for review was inadvertently forgotten until after the deadline. *Id.*

Bielas was not at fault for the delay. *Id.*

The motion for discretionary review is a single issue, nine-page motion. *Id.* It does not appear that the consideration of that motion would prejudice either party. *Id.*

I declare the forgoing to be true and correct to the best of my knowledge, memory, and belief, under penalty of perjury.

Signed at Vancouver, WA, on 08-21-2023

A handwritten signature in black ink, appearing to be 'JCT', written over a horizontal line.

John C. Terry

THE SUPREME COURT

STATE OF WASHINGTON

ERIN L. LENNON
SUPREME COURT CLERK

SARAH R. PENDLETON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY



TEMPLE OF JUSTICE

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August 15, 2023

LETTER SENT BY E-MAIL ONLY

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Hon. Derek Byrne, Clerk
Court of Appeals, Division II
909 A Street, Suite 200
Tacoma, WA 98402

Lauren Ruth Boyd
Clark County Prosecuting Attorney's Office
1013 Franklin Street
Vancouver, WA 98660-3039

Re: Supreme Court No. 102265-4 - State of Washington v. Joseph M. Bielas
Court of Appeals No. 56796-2-II

Clerk and Counsel:

On August 15, 2023, this Court received and filed the Petitioner's "PETITION FOR DISCRETIONARY REVIEW". The matter has been assigned the Supreme Court cause number indicated above.

A review of the Court of Appeals case indicates the Court of Appeals decision terminating review was filed on June 27, 2023. RAP 13.4(a) requires the filing of a petition for review within 30 days after a decision terminating review is filed. The Rules of Appellate Procedure require that the petition be received by the Court within the 30 days. Therefore, the petition was due for filing by the close of business on July 27, 2023. The petition for review was not filed until August 15, 2023; see RAP 18.6(c).

The Petitioner may seek an extension of time in which to file the petition for review by filing a motion for extension of time to file a petition for review. Any such motion should be served and filed in this Court by **August 22, 2023**. The motion should be supported by an appropriate affidavit establishing good cause for the delay in filing the petition for review; see RAP 18.8 for information on extension of time for filings and RAP Title 17 for the general rules governing motions. A motion for extension of time to file is normally not granted; see RAP 18.8(b).

In addition, the \$200 filing fee did not accompany the petition. The filing fee should also be paid by **August 22, 2023**.

It is noted that a copy of the Court of Appeals decision was not attached to the petition for review as required by RAP 13.4(c)(9). Please be advised that in the future, the Court of Appeals opinion should always be attached as an appendix when filing a petition for review.

For the above stated reasons the petition for review has been rejected for filing. To continue with this case, by **August 22, 2023**, the \$200 filing fee must be paid, and a motion for extension of time must be received by this Court.

Upon receipt of the filing fee, petition for review and the motion for extension of time, due dates will be set for filing any answer to the petition for review and the motion for extension of time.

Counsel are referred to the provisions of General Rule 31(e) regarding the requirement to omit certain personal identifiers from all documents filed in this court. This rule provides that parties "shall not include, and if present shall redact" social security numbers, financial account numbers and driver's license numbers. As indicated in the rule, the responsibility for redacting the personal identifiers rests solely with counsel and the parties. The Clerk's Office does not review documents for compliance with the rule. Because briefs and other documents in cases that are not sealed may be made available to the public on the court's internet website, or viewed in our office, it is imperative that such personal identifiers not be included in filed documents.

Counsel are advised that future correspondence from this Court regarding this matter will most likely only be sent by an e-mail attachment, not by regular mail. For attorneys, this office uses the e-mail address that appears on the Washington State Bar Association lawyer directory. Counsel are responsible for maintaining a current business-related e-mail address in that directory.

Sincerely,



Sarah R. Pendleton
Supreme Court Deputy Clerk

SRP:ejn

CERTIFICATE OF SERVICE

This document was filed via CM/ECF and will be automatically served on all registered participants and/or on all parties in interest through their attorneys of record via email. The undersigned further certifies that all of the following were served via email.

Lauren Boyd

lauren.boyd@clark.wa.gov
Deputy Prosecuting Attorney
Clark County Prosecuting Attorney
1013 Franklin Street
Vancouver, WA 98660

Additional copies served by mail: None, unless requested.

Dated: 08-21-2023



John C. Terry

ANDREWS TERRY JEFFERS LLP

August 21, 2023 - 1:49 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 102,265-4
Appellate Court Case Title: State of Washington v. Joseph M. Bielas
Superior Court Case Number: 21-1-00495-1

The following documents have been uploaded:

- 1022654_Motion_20230821134457SC141350_4107.pdf
This File Contains:
Motion 1 - Extend Time to File
The Original File Name was FINAL - Motion to Enlarge Time for Motion for Discretionary Review.pdf

A copy of the uploaded files will be sent to:

- cntypa.generaldelivery@clark.wa.gov
- lauren.boyd@clark.wa.gov

Comments:

Sender Name: John Terry - Email: jterry@mbavancouverlaw.com

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Note: The Filing Id is 20230821134457SC141350